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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,050	09/11/2003	John S. Austin	END920030035US1	6725
30449	7590	11/26/2004	EXAMINER	
SCHMEISER, OLSEN + WATTS			WAMBACH, MARGARET R	
SUITE 201			ART UNIT	
3 LEAR JET			PAPER NUMBER	
LATHAM, NY 12033			2816	

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,050

Applicant(s)

AUSTIN ET AL.

Examiner

Margaret R Wambach

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-25 is/are rejected.
- 7) ☒ Claim(s) 12, 15, 16, 19 and 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION***Election/Restrictions***

Claims 1-9 and 26-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/12/04. Applicant's election with traverse of invention elected in the reply filed on 10/12/04 is acknowledged. The traversal is on the ground(s) that applicant alleges the search and examination of the entire application can be made without serious burden. This is not found persuasive because, contrary to applicant's statements, the search for the different structures is not the same, and the additional documents to be considered would be substantial and, thus, represent a serious burden to the examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

Claims 12, 15, 16, 19 and 25 are objected to because of the following informalities: to improve clarity, in claims 12 and 19, line 3, it appears as if "by" should be inserted after "divided" and in line 6, "where" should be inserted after "number", in claim 15, "on-shot" should be replaced with "one-shot", in claim 16, "said clock signal" should be replaced by "said input clock signal" and in claim 25, line 5, "one shot generated" should be "one-shot generator". Further, only first and second latches are recited in the second paragraph of claim 25 but a next to last latch, a last latch and a first latch (implying three latches) are recited in the next paragraph. This inconsistency

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creates confusion such that Applicant has failed to particularly point out the claimed invention.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Proper antecedent basis has not been provided for the following terms: In claim 10, "the output of a next to last latch", in claim 15, "the input", "said inverting multiplexer" and "the outputs", in claim 16, "the output of said NAND stage" and "said latch", in claim 17, "the output of a next to last latch", in claim 18, "the data output of a next to last latch", in claim 23, "the output of said NAND stage" and in claim 25, "said last latch".

Allowable Subject Matter

Claims 10 and 17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 11-16 and 18-25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter: Figure 7 of Nguyen, a frequency divider generating an output clock signal (title) is taught as recited in claims 1 comprising:

A one-shot generator (711), an input of said one-shot generator coupled to an input clock signal (CLKIN) and an output of said one shot generator (PULSE) coupled to clock inputs of at least two latches (the output of the one-shot is shown to be input to three latches, 740-742, in Figure 7B). What is most prominently lacking from Nguyen is an output of the frequency divider which is coupled to the output of the next to last latch of said shift register (there is no current path between Q1B or Q1 and CLKOUT) as recited in independent claims 10 and 17.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The relevance of Nguyen et al is explained in the foregoing paragraph.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret R Wambach whose telephone number is (571)272- 1756. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday 6am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Callahan can be reached on (571)272-1740. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Margaret R Wambach
Primary Examiner
Art Unit 2816

mrw